

AMENDED IN SENATE JUNE 25, 2014

AMENDED IN SENATE JUNE 3, 2014

AMENDED IN ASSEMBLY MAY 29, 2013

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY MARCH 12, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 913

Introduced by Assembly Member Chau

February 22, 2013

An act to add Section 47604.1 to the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 913, as amended, Chau. Charter schools.

(1) The Ralph M. Brown Act requires that all meetings of a legislative body, as defined, of a local agency be open and public and all persons be permitted to attend unless a closed session is authorized. The Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend.

This bill would expressly state that a charter school is subject to the Ralph M. Brown Act, unless it is operated by an entity governed by the Bagley-Keene Open Meeting Act, in which case the charter school would be subject to the Bagley-Keene Open Meeting Act.

(2) The California Public Records Act requires state and local agencies to make their records available for public inspection and to

make copies available upon request and payment of a fee unless the records are exempt from disclosure.

This bill would expressly state that a charter school is subject to the California Public Records Act.

(3) Existing law prohibits certain public officials, including, but not limited to, state, county, or district officers or employees, from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members, except as provided.

This bill would expressly state that a charter school is subject to these provisions.

(4) The Political Reform Act of 1974 requires every state agency and local governmental agency to adopt a conflict-of-interest code, formulated at the most decentralized level possible, that requires designated employees of the agency to file statements of economic interest disclosing any investments, business positions, interests in real property, or sources of income that may foreseeably be affected materially by any governmental decision made or participated in by the designated employee by virtue of his or her position.

This bill would expressly state that a charter school is subject to the Political Reform Act of 1974.

(5) This bill would state various exceptions and clarifications regarding the applicability of the acts described above in paragraphs (1) to (4), inclusive, including, among others, that an employee of a charter school is not disqualified from serving as a member of the governing body of the charter school because of that employment ~~status~~, *status, and that a member of the governing body of a charter school is authorized to provide a loan to, or sign a guarantor agreement relative to a line of credit for, the charter school, as specified.*

(6) This bill would make these provisions operative on July 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature in enacting this
- 2 act to do all of the following:
- 3 (a) Establish conflict-of-interest policies for the governing body
- 4 of charter schools that mirror existing conflict-of-interest policies
- 5 followed by the governing board of school districts.

1 (b) Provide transparency in the operations of the many charter
2 schools that are providing quality educational options for parents
3 and pupils and renew the faith of parents and the community that
4 their local charter school is acting in the best interests of pupils.

5 (c) Continue to provide greater autonomy to charter schools
6 than traditional public schools and provide greater transparency
7 to parents and the public with regard to the use of public funds by
8 the governing body of charter schools for the educational benefit
9 of their pupils.

10 (d) Establish standards and procedures consistent with the
11 Charter Schools Act of 1992 to avoid conflicts of interest in charter
12 schools.

13 SEC. 2. Section 47604.1 is added to the Education Code, to
14 read:

15 47604.1. (a) A charter school is subject to all of the following:

16 (1) The Ralph M. Brown Act (Chapter 9 (commencing with
17 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
18 Code), except that a charter school operated by an entity governed
19 by the Bagley-Keene Open Meeting Act (Article 9 (commencing
20 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title
21 2 of the Government Code) is subject to the Bagley-Keene Open
22 Meeting Act regardless of the authorizing entity.

23 (2) The California Public Records Act (Chapter 3.5
24 (commencing with Section 6250) of Division 7 of Title 1 of the
25 Government Code).

26 (3) Article 4 (commencing with Section 1090) of Chapter 1 of
27 Division 4 of Title 1 of the Government Code.

28 (4) The Political Reform Act of 1974 (Title 9 (commencing
29 with Section 81000) of the Government Code). For purposes of
30 Section 87300 of the Government Code, a charter school shall be
31 considered an agency. *The charter school's code reviewing body*
32 *shall be determined pursuant to Section 82011 of the Government*
33 *Code.*

34 ~~(b) Notwithstanding Article 4 (commencing with Section 1090)~~
35 ~~of Chapter 1 of Division 4 of Title 1 of the Government Code, an~~
36 ~~employee of a charter school is not disqualified because of that~~
37 ~~employment status from also serving as a member of the governing~~
38 ~~body of the charter school. A member of the governing body of a~~
39 ~~charter school shall abstain from voting on, or influencing or~~
40 ~~attempting to influence another member of the governing body~~

1 ~~regarding, all matters uniquely affecting his or her own~~
2 ~~employment.~~

3 *(b) (1) Notwithstanding Article 4 (commencing with Section*
4 *1090) of Chapter 1 of Division 4 of Title 1 of the Government*
5 *Code, both of the following apply:*

6 *(A) An employee of a charter school shall not be disqualified*
7 *because of that employment status from also serving as a member*
8 *of the governing body of the charter school.*

9 *(B) A member of the governing body of a charter school who*
10 *is also an employee shall not act in his or her capacity as a member*
11 *of that governing body to make, participate in making, or use his*
12 *or her official position to influence, all matters uniquely affecting*
13 *his or her own employment with the charter school.*

14 *(2) Notwithstanding Article 4 (commencing with Section 1090)*
15 *of Chapter 1 of Division 4 of Title 1 of the Government Code, a*
16 *person who provides a loan to, or signs a guarantor agreement*
17 *relative to a line of credit for, a charter school, shall not be*
18 *disqualified from also serving as a member of the governing body*
19 *of the charter school or from being an employee of the charter*
20 *school because of that loan agreement or line of credit agreement.*
21 *A member of the governing body of a charter school who provides*
22 *a loan or signs as guarantor of a line of credit, as described in*
23 *this paragraph, shall abstain from voting on, or influencing or*
24 *attempting to influence another member of the governing body of*
25 *the charter school regarding, all matters affecting the loan*
26 *agreement or line of credit agreement. The governing body of the*
27 *charter school shall disclose and approve the loan agreement or*
28 *line of credit agreement, including the terms of the loan and an*
29 *assurance that the terms of the loan agreement or line of credit*
30 *agreement will be at zero interest or at an interest rate that results*
31 *in returns that shall not exceed the cost to enter into the loan*
32 *agreement or line of credit agreement, during a public meeting.*

33 *(c) A person who is disqualified by the California Constitution*
34 *or laws of the state from holding a civil office shall not serve on*
35 *the governing body of a charter school.*

36 *(d) To the extent that the governing body of a charter school*
37 *engages in activities that are not related to the operation of the*
38 *charter school, this section does not make those unrelated activities*
39 *subject to Section 1090 of the Government Code, the Ralph M.*
40 *Brown Act, the Bagley-Keene Open Meeting Act, or the California*

1 Public Records Act. A meeting of the governing body of a charter
2 school to discuss items related to the operation of the charter school
3 shall not include discussion of any item regarding an activity of
4 the governing body that is not related to the operation of the charter
5 school.

6 (e) ~~The~~ *Notwithstanding any other law, the* governing body of
7 a charter school may meet within the physical boundaries of the
8 county or counties in which one or more of the school's facilities
9 are located *or within the physical boundaries of the charter*
10 *school's chartering authority*, provided that proper notices pursuant
11 to the Ralph M. Brown Act or the Bagley-Keene Open Meeting
12 Act are posted within the physical boundaries of each of the
13 counties in which any of the school's facilities are located. A
14 charter school also may meet in a county contiguous to the county
15 where one or more of the school's facilities are located if at least
16 10 percent of the pupils who are enrolled in the school reside in
17 that contiguous county. A nonclassroom-based charter school that
18 does not have a facility may meet within the boundaries of the
19 county in which the greatest number of pupils who are enrolled in
20 the school reside. This subdivision shall not limit the authority of
21 the governing body to meet outside these boundaries to the extent
22 authorized by Section 54954 of the Government Code, provided
23 that the meeting place is in compliance with Section 54961 of the
24 Government Code.

25 (f) A statement of economic interest that is filed by a designated
26 person at a charter school after the required deadline pursuant to
27 the Political Reform Act of 1974 shall not be the sole basis for
28 revocation of a charter pursuant to Section 47607.

29 (g) For purposes of this section, "facility" means a charter school
30 campus, resource center, meeting space, or satellite facility.

31 (h) Notwithstanding any other law, this section shall not apply
32 to actions taken before the operative date of this section.

33 (i) This section shall become operative on July 1, 2015.